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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,236	01/15/2004	James F. Woodhouse	11306-204001	5306
26191	7590	03/24/2006	EXAMINER	
FISH & RICHARDSON P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			KUHNS, SARAH LOUISE	
			ART UNIT	PAPER NUMBER
			1761	
DATE MAILED: 03/24/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/758,236

Applicant(s)

WOODHOUSE ET AL.

Examiner

Sarah L. Kuhns

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 17-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 34-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

Claims 1-8, 34-38, 41, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dixon, in view of Golchert and Waters, for the reasons set forth in the previous Office Action, in further view of Borkland, U.S. Patent 2,468,731.

Dixon does not expressly disclose steps of creating an original image and then a distorted version of the original image that can be formed into a three-dimensional version of the original image. However, Borkland teaches that such a process was well established in the art (column 1, lines 25-38 and column 3, line 51-column 4, line 5). Borkland further discloses the use of a thermoplastic carrier material (column 2, lines 35-42). It would have been obvious to extend the teaching of Borkland to the combination of Dixon, Golchert, and Waters, since it was a known method of forming a three-dimensional version of an original two-dimensional image.

In regard to new claims 41 and 42, it is noted that Golchert discloses a method of applying an image using an edible ink composition printed on a plastic sheet in which the image is transferred from the plastic sheet to the food product (column 2, lines 11-68) and Waters discloses a method in which a decorated confection is formed by printing with edible ink onto an edible paper, which is placed in the bottom of a mold that

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is then filled with melted chocolate. Once the chocolate solidifies, the decorative sheet becomes secured to the chocolate (abstract). It therefore would have been obvious, to vacuum mold the sheet of Golchert in the manner taught by Dixon, in order to provide a three-dimensional decoration, and then pour a warm liquid substance into the resulting relief mold that would solidify upon cooling and adhere to the image, as taught by Waters. It further would have been obvious to temporarily store the carrier in a moisture-barrier package after forming the three-dimensional impression in the carrier in order to avoid contamination and protect the image until the user is ready to add the edible material.

Claims 9-16, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dixon, in view of Golchert, Waters, and Russell, for the reasons set forth in the previous Office Action, in further view of Borkland, as applied above.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-16 and 34-40 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah L. Kuhns whose telephone number is 571-272-1088. The examiner can normally be reached on Monday - Friday from 8:00 am - 4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached at 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SLK

  
MILTON A. CANO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700